*THE HON'BLE SRI JUSTICE P.S. NARAYANA

+W.P.No.12496 OF 2006

% 22-06-2006

D r . G.Anand Kumar and another

.. Petitioners

And

**$The Municipal Corporation of Hyderabad,
Tank Bund, Hyderabad, represented by
its Commissioner and another**

.. Respondents

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>HEAD NOTE:

! Counsel for petitioners : Sri Posani Venkateswarlu

^ Standing Counsel for respondents :Smt. G.Jyothi Kiran

?CASES REFERRED :

1. 2000(4) ALD 126.
2. 2001(3) ALD 600.

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THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.12496 of 2006

DATED: 22.06.2006

Between
Dr.G.Anand Kumar Reddy and another.

..
PETITIONERS

versus

The Muncipal Corporation of Hyderabad,
Tank Bund, Hyderabad, represented by
its Commissioner and another. ..
RESPONDENTS

WRIT PETITION NO.12496 of 2006

ORDER:

Heard both the learned counsel.

The Writ Petition is filed praying for a Writ of Mandamus declaring the action of the respondents in insisting for No Objection Certificate (NOC) from Joint Collector, Hyderabad and not receiving the building application of the petitioners in respect of premises bearing No.8-3-168/P/1, Erragadda, opposite ESI Hospital, Hyderabad and not granting building permission as illegal, arbitrary, contrary to the provisions of Hyderabad Municipal Corporation Act, 1955 and Building Bye-Laws, 1981 and consequently direct the respondents to receive the building application of the petitioners and grant building permissions without insisting No Objection Certificate (NOC) from the Joint Collector, Hyderabad and pass such other suitable orders.

It is stated that the petitioners' vendor purchased the property through registered sale deed dated 2.9.1974 and their vendor's vendor purchased the said property through registered sale deed dated 5.1.1973. It is also stated that the petitioners in order to construct residential house in the said property, approached the 2nd respondent office on 17.6.2006 with building application form enclosing all

the required documents as per Act, Rules and Regulations, but the 2nd respondent refused to receive the building application on the ground that No Objection Certificate (NOC) obtained from the Joint Collector, Hyderabad, had not been enclosed to the building application. It is stated that though repeatedly it was held that such Certificate cannot be insisted upon, the 2nd respondent is insisting for such Certificate, which is totally unsustainable and in view of the same the petitioners had approached this Court for issuance of appropriate Writ.

The learned counsel also placed reliance on the decisions of this Court in Writ Petition No.15373 of 2004, dated 27.8.2004, DISTRICT COLLECTOR vs. N.KRISHNA MOHAN[1] and HYDERABAD POTTERIES PRIVATE LIMITED vs. DISTRICT COLLECTOR, HYDERABAD[2]. In the light of the same, it is clear that the authorities refusing to receive the building application on the ground that No Objection Certificate obtained from the Joint Collector, Hyderabad, had not been enclosed to the building application, cannot be sustained. Inasmuch as this question is not in serious controversy, the writ petitioners are bound to succeed.

Accordingly the Writ Petition is hereby allowed. No costs.

SSR 22.06.2006

Issue order copy in three days.

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[1] 2000(4) ALD 126.

[2] 2001(3) ALD 600.